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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KEITH BARRCLOUGH, BRYAN R. MARTIN,
PHILIP BEDNARZ, and PAUL VOOIS

Appeal 2008-3231
Application 09/740,263
Technology Center 2600

Decided: September 29, 2008

Before KENNETH W. HAIRSTON, JOHN A. JEFFERY, and
ELENI MANTIS MERCADER, *Administrative Patent Judges*.

MANTIS MERCADER, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants seek our review under 35 U.S.C. § 134 of the Examiner's final rejection of claims 1-75. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

INVENTION

Appellants' claimed invention is directed to a Network Interface Unit (NIU) used in a household (Spec. 8:25-27). An external-services provider (110) is coupled via a communications line (120) to an NIU (130) for use in a household (115) (Fig. 1 and Spec. 8:26-28). The NIU (130) is coupled to a bussing arrangement (140) adapted to deliver the external-services data to different appliances (150 or 160) in the household (Fig. 1 and Spec. 8:29-9:1). The NIU uses memory to store external-services data, such as audio and video recordings, email, and voicemail (Spec. 13:13-15). The memory may be included in the NIU, or may be an external memory, such as part of an appliance in the user facility or at an external-service provider (Spec. 13:15-17).

Claim 1, reproduced below, is representative of the subject matter on appeal:

1. An arrangement for processing external-services data for use in a user facility that provides its users telephony-related services, the arrangement comprising:

an audio, video, and data signal bussing arrangement adapted to distribute audio, video, and data to designated points in the user facility;

a plurality of telephony-based appliances communicatively coupled to the bussing arrangement, wherein the plurality of appliances provide bi-directional telephony services using at least one of: audio, video, and data signals;

at least one data memory circuit adapted to store external-services data and adapted to store configuration data;

a programmable network interface unit (NIU) adapted to store external-services data in the memory circuit and to communicatively couple the stored external services data from the memory circuit to the plurality of appliances in the user facility via the bussing arrangement as a function of the configuration data in the memory circuit; and

a user input device adapted to access the data stored in the memory circuit, to program the programmable NIU by providing the configuration data and to command the NIU via the bussing arrangement to process the external-services data for use at a particular one of the plurality of appliances in the user facility.

THE REJECTIONS

The Examiner relies upon the following as evidence of unpatentability:

Cohen	US 4,837,798	Jun. 06, 1989
Goldstein	US 5,410,326	Apr. 25, 1995
Hamlin	US 5,574,964	Nov. 12, 1996
Lewis	US 5,835,126	Nov. 10, 1998
Edens	US 6,611,537 B1	Aug. 26, 2003 (filed May 30, 1997)

Ellis	US 2005/0251827 A1	Nov. 10, 2005 (filed Jul. 17, 1998)

The following rejections are before us for review:

1. Claims 1-6, 8-16, 21, 23-28, 30, 32-36, 42-49, 51, 53-59, 63-66, 68, 70, and 74 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hamlin in view of Ellis.

2. Claims 20 and 50 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hamlin in view of Ellis and further in view of Goldstein.

3. Claims 7, 22, 29, 31, 37-41, 67, and 75 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hamlin in view of Ellis and further in view of Edens.

4. Claims 17-19, 52, and 60-62 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hamlin in view of Ellis and further in view of Cohen.

5. Claims 69 and 71-73 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hamlin in view of Ellis and further in view of Lewis.

OBVIOUSNESS

There are multiple obviousness issues before us regarding whether Appellants have shown that the Examiner erred in rejecting claims 1-75 under 35 U.S.C. § 103(a).

We present these issues as they correspond to, and in the order of, Appellants' presented arguments:

1. Regarding claims 1-6, 8-16, 21, 23-28, 30, 32-36, 42-49, 51, 53-59, 63-66, 68, 70, and 74

The issue is whether the Examiner erred in determining that Hamlin in view of Ellis teach or suggest a data memory circuit that stores external services data (i.e., packet-based data) and a selective routing of stored data to appliances that provide bi-directional telephony services as claimed.

2. Regarding claims 20 and 50

The issue is whether the Examiner erred in determining that Hamlin in view of Ellis and further in view of Goldstein teach or suggest an input device (i.e., remote-control) using a security code as claimed.

3. Regarding claims 7, 22, 29, 31, 37-41, 67, and 75

The issue is whether the Examiner erred in determining that Hamlin in view of Ellis and further in view of Edens teach or suggest DTMF tone control as claimed.

4. Regarding claims 17-19, 52, and 60-62

The issue is whether the Examiner erred in determining that Hamlin in view of Ellis and further in view of Cohen teach or suggest converting word processing data into audio data as claimed.

5. Regarding claims 69 and 71-73

The issue is whether the Examiner erred in determining that Hamlin in view of Ellis and further in view of Lewis teach or suggest a particular subscription to a TV as claimed.

FINDINGS OF FACT

The relevant facts include the following:

1. Hamlin teaches a controller 38 (i.e., personal computer) (col. 3, ll. 59-60 and Fig. 3) containing a system database storage 48 (i.e., data memory circuit) that "stores all information necessary for the system controller 38 to identify the location of all components of the signal distribution system 12, and to monitor whatever activity is occurring at each location" (col. 4, ll. 23-26).
2. Hamlin further teaches that the system database 48 stores each frequency of the common bus signal to which an incoming signal has been converted, interface pods address locations, addresses of all receiving locations, and the type of receiving unit 46 coupled to interface pod 44 (col. 4, ll. 16-22).
3. Hamlin teaches that a user may request stock reports that can be received over a telephone line 37, routed to a particular room in the house, and displayed on TV (col. 5, l. 66-col. 6, l. 7).
4. Ellis teaches a server (i.e., PC with data memory circuit) (Fig. 5 and ¶[74]) that handles data distribution tasks and stores information (i.e., video) that can be distributed to the home via the Internet (i.e., packet-based network) in a client-server based interactive television program guide (¶[74] and ¶[84]).
5. Ellis teaches in Figure 5 a server 80 connected to user television equipment 81, 82, and 83 via communication paths 85 (Fig. 5 and ¶[74]).
6. Hamlin teaches a remote controller 42, which directs mass media signals 22 to rooms 14, 16, 18, 20 in the house 12 in response to user commands (col. 5, ll. 46-50).

7. Goldstein discloses a universal remote control for controlling a variety of consumer products (col. 3, ll. 14-17).
8. Goldstein states that it is desirable to add security provisions to remote control devices to prevent unauthorized use (col. 3, ll. 1-11).
9. Hamlin teaches sending telephone signals over a common bus (Fig. 1; col. 2, l. 67 and col. 5, l. 66-col. 6, l. 7) and sending control signals over the bus (col. 6, ll. 18-20).
10. Edens teaches a home network interconnecting a variety of home appliances (Fig. 1).
11. Edens teaches transmitting DTMF tone control signals over the home network (col. 96, ll. 36-46).
12. Hamlin indicates undesirability in the constant updating of equipment within the home to comp1y with new formats or configurations of signals (col. 1, ll. 40-52).
13. Edens expresses a desirability to create a network that is compatible with existing consumer electronics devices (col. 9, ll. 39-43).
14. Cohen teaches providing information to retrieval devices with technological limitations (col. 2, l. 57-col. 3, l. 3).
15. Cohen teaches that users are able to retrieve messages from their chosen unified messaging mailbox using any of several terminals (101-108), from any location, local or remote (col. 2, ll. 47-50).
16. Cohen further teaches that the user has unified access to any messaging service such as electronic mail, voice mail, and local area network (col. 2, ll. 50-54).

17. Cohen teaches that a text-to-speech converter (13) uses the well-known text-to-speech technology for media conversion so that most types of messages can be retrieved in voice form from a conventional voice telephone (101-102) (i.e., a particular appliance) (col. 2, l. 67-col. 3, l. 3).
18. Cohen further teaches a unified messaging system whereby messages can be forwarded from one service to another (col. 2, ll. 41-45).
19. Hamlin discloses a communication bus that receives a variety of television signals and communicates them to televisions throughout the home (Fig. 1 and col. 5, ll. 46-54).
20. Lewis discloses a closed cable network within a building that receives program source material from a pay per view system and directs the pay per view material to a room that ordered the material (col. 6, ll. 25-33 and col. 8, ll. 42-48).
21. Lewis expresses a need within the art for a system that allows a user to interactively access information outside of a network without requiring additional equipment within each user location (col. 1, ll. 29-36).

PRINCIPLES OF LAW

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. *See In re Fine*, 837 F.2d 1071, 1073 (Fed. Cir. 1988). In so doing, the Examiner must make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17 (1966).

Discussing the question of obviousness of a patent that claims a combination of known elements, the Court in *KSR Int'l v. Teleflex, Inc*., 127 S. Ct. 1727 (2007) explains:

> When a work is available in one field of endeavor, design incentives and other market forces can prompt variations of it, either in the same field or a different one. If a person of ordinary skill can implement a predictable variation, § 103 likely bars its patentability. For the same reason, if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill. *Sakraida* [*v. AG Pro, Inc.*, 425 U.S. 273 (1976)] and *Anderson's-Black Rock*[*, Inc. v. Pavement Salvage Co*., 396 U.S. 57 (1969)] are illustrative—a court must ask whether the improvement is more than the predictable use of prior art elements according to their established functions.

KSR, 127 S. Ct. at 1740. If the claimed subject matter cannot be fairly characterized as involving the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for the improvement, a holding of obviousness can be based on a showing that "there was an apparent reason to combine the known elements in the fashion claimed." *Id.*, 127 S. Ct., at 1740-41. Such a showing requires "some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. . . . [H]owever, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ." *Id*., 127 S. Ct. at 1741 (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)).

If the Examiner's burden is met, the burden then shifts to the Appellants to overcome the prima facie case with argument and/or evidence. Obviousness is then determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. *See In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992).

One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. *In re Keller*, 642 F.2d 413, 425 (CCPA 1981).

"The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference . . . . Rather, the test is what the combined teachings of those references would have suggested to those of ordinary skill in the art." *Id.* at 425.

ANALYSIS

1. Regarding claims 1-6, 8-16, 21, 23-28, 30, 32-36, 42-49, 51, 53-59, 63-66, 68, 70, and 74

Initially, we note that Appellants' arguments have grouped claims 1-6, 8-16, 21, 23-28, 30, 32-36, 42-49, 51, 53-59, 63-66, 68, 70, and 74 together (App. Br. 5-10).[1] Thus in accordance with 37 C.F.R. § 41.37(c)(1)(vii) we select independent

[1] Only arguments made by Appellants have been considered in this decision. Arguments which Appellants could have made but did not make in the Briefs have not been considered and are deemed waived. *See* 37 C.F.R. § 41.37(c)(1)(vii) (2004).

claim 1 as representative of the group of claims.

> *Did the Examiner err in determining that Hamlin in view of Ellis teach or suggest a data memory circuit that stores external services data (i.e., packet-based data) and a selective routing of stored data to appliances that provide bi-directional telephony services as claimed?*

Appellants argue that Hamlin's database 48 stores information used in system control but does not store any external services data (App. Br. 7). Furthermore, Appellants argue that the modification of Hamlin's database with Ellis server 80 does not cure the deficiency because Ellis' server 80 does not teach the configured storage and routing of external services (App. Br. 7). Finally, Appellants argue that there is no motivation to modify Hamlin in view of Ellis (App. Br. 8) and that the articulated motivation by the Examiner to use a typical client-server architecture for storing and serving video data to devices in the home is only the Examiner's opinion unsupported by any evidence (App. Br. 9).

The Examiner responds that Hamlin's controller 38 (i.e., personal computer) contains a system database storage 48 (i.e., data memory circuit) that "stores all information necessary for the system controller 38 to identify the location of all components of the signal distribution system 12, and to monitor whatever activity is occurring at each location" (Ans. 35 and Finding of Fact 1). The Examiner states that Hamlin further teaches that the system database 48 stores each frequency of the common bus signal to which an incoming signal has been converted, interface pods address locations, addresses of all receiving locations, and the type of receiving unit 46 coupled to interface pod 44 (Ans. 35 and Finding of Fact 2). The Examiner states that in one particular example, Hamlin teaches that a user may request stock reports that can be received over a telephone line 37,

routed to a particular room in the house, and displayed on TV (Ans. 36 and Finding of Fact 3). The Examiner states that telephony-based appliances are interpreted to be devices that receive data sent over a telephone network (Ans. 36). Thus, the Examiner determined that Hamlin's routing telephone network data to pods and receiving units in the home, constitute "a plurality of telephony-based appliances communicatively coupled to the bussing arrangement, wherein the plurality of appliances provide bi-directional telephony services using at least one of: audio, video, and data signals," as claimed (Ans. 36).

The Examiner recognizes that Hamlin does not teach storing packet-based (i.e., external services data in a data memory circuit) (Ans. 36). The Examiner states that Ellis teaches a server (i.e., PC with data memory circuit) that handles data distribution tasks and stores information (i.e., video) that can be distributed to the home via the Internet (i.e., packet-based network) in a client-server based interactive television program guide (Ans. 36 and Finding of Fact 4). The Examiner indicates that Figure 5 shows server 80 connected to user television equipment 81, 82, and 83 via communication paths 85 (Ans. 36-37 and Finding of Fact 5). The Examiner concluded that Ellis teaches a data memory circuit that stores packet-based data (i.e., external-services data), and the selective routing of stored data to appliances that provide bi-directional telephony services as claimed (Ans. 37). The Examiner articulated as a rationale to modify Hamlin's PC storage database 48 with Ellis's media storage of packet-based data and distribution server, the recognition by Hamlin that homeowners commonly have several VCR's spread through their homes which leads to an ongoing requirement to update their equipment (Ans. 39). Thus, the Examiner determined that one skilled in the art

would recognize that replacing multiple pieces of equipment with a server in a client-server arrangement would further result in significant reduction in cost and complexity of Hamlin's system (Ans. 39).

We agree with the Examiner's findings of fact and conclusion and we adopt them as our own. We add the following primarily for emphasis.

As stated *supra*, the teachings of Hamlin's PC having database 48 that stores configuration data and Ellis's server that stores and distributes packet-based data can be reasonably combined into a server that stores both configuration data and external services data for the articulated rationale of a significant reduction in cost and complexity of Hamlin's system (i.e., eliminating multiple VCR's), which possesses a rational underpinning to support the legal conclusion of obviousness. *In re Kahn*, 441 F.3d at 988.

For the above reasons, Appellants' arguments have not persuaded us of error in the Examiner's rejection of claims 1-6, 8-16, 21, 23-28, 30, 32-36, 42-49, 51, 53-59, 63-66, 68, 70, and 74 under 35 U.S.C. § 103(a) as being unpatentable over Hamlin in view of Ellis, and we sustain the Examiner's rejection.

2. Regarding claims 20 and 50

Did the Examiner err in determining that Hamlin in view of Ellis and further in view of Goldstein teach or suggest an input device (i.e., remote-control) using a security code as claimed?

Initially, Appellants repeat the arguments set forth above due to the dependency of claims 20 and 50 from claims 1 and 46, respectively (App. Br. 10). We direct Appellants to section 1 of the analysis. Appellants further argue that the

Examiner failed to cite any evidence of motivation for modifying Hamlin to include Goldstein's remote-control configuration using a security-code (App. Br. 10). Appellants further argue that "the Examiner's opinion that it would have been obvious 'to use a security code in the remote controller, in order to allow for tighter security and use by only those authorized users' fails to describe where Hamlin uses a remote controller or why Hamlin would be susceptible to any security issues" (App. Br. 10).

The Examiner responds that Hamlin teaches a remote controller 42, which directs mass media signals 22 to rooms 14, 16, 18, 20 in the house 12 in response to user commands (Finding of Fact 6). The Examiner recognizes that Hamlin is silent as to the use of security provisions within the remote controller. The Examiner finds that Goldstein discloses a universal remote control for controlling a variety of consumer products (Finding of Fact 7). The Examiner further finds that Goldstein states that it is desirable to add security provisions to remote control devices to prevent unauthorized use (Finding of Fact 8). Thus, the Examiner concludes that one of ordinary skill in the art at the time that the invention was made would have recognized the benefit of modifying the remote controller of Hamlin to use a security code in order to allow for tighter security and use by only authorized users, such as that taught by Goldstein.

We agree with the Examiner's findings of fact and conclusion and we adopt them as our own. We add the following primarily for emphasis.

As stated *supra*, one cannot show nonobviousness by attacking references individually (i.e., Hamlin) where the rejections are based on combinations of references (i.e., Goldstein providing the desirability to add security provisions to

remote control devices, so as to prevent unauthorized use). *In re Keller*, 642 F.2d at 425 (CCPA 1981). The test of obviousness is what the combined teachings would have suggested to those of ordinary skill in the art. *Id.* at 425.

For the above reasons, Appellants' arguments have not persuaded us of error in the Examiner's rejection of claims 20 and 50 under 35 U.S.C. § 103(a) as being unpatentable over Hamlin in view of Ellis and further in view of Goldstein, and we sustain the Examiner's rejection.

3. Regarding claims 7, 22, 29, 31, 37-41, 67, and 75

Did the Examiner err in determining that Hamlin in view of Ellis and further in view of Edens teach or suggest DTMF tone control as claimed?

Appellants repeat the arguments set forth in section 1 by virtue of the dependency of the claims from independent claims 1 and 65 (App. Br. 11). We direct Appellants to section 1 of the analysis. Appellants specifically argue with respect to claim 31 that instead of citing evidence, the rejection relies upon the Examiner's opinion as to the modification of Hamlin's frequency-based system to include DTMF-tone control (App. Br. 11). Appellants further argue that the rejection does not cite any evidence supporting the modification of Hamlin to include additional circuitry, programming or other items to facilitate the proposed modification, nor do any of the rejections describe how the Hamlin reference could operate as so modified (App. Br. 11).

The Examiner responds that Hamlin teaches sending telephone signals over a common bus and sending control signals over the bus (Finding of Fact 9 and Ans. 41). The Examiner recognizes that Hamlin is silent as to including DTMF-tone control. The Examiner states that Edens teaches a home network

interconnecting a variety of home appliances (Finding of Fact 10 and Ans. 41). The Examiner further states that Edens teaches transmitting DTMF tone control signals over the home network (Finding of Fact 11 and Ans. 41). The Examiner notes that DTMF signaling is commonly used for telephone signaling over telephone networks (Ans. 41). The Examiner states that Hamlin indicates undesirability in the constant updating of equipment within the home to comp1y with new formats or configurations of signals (Finding of Fact 12 and Ans. 41). Furthermore, the Examiner notes that Edens states a desirability to create a network that is compatible with existing consumer electronics devices (Finding of Fact 13 and Ans. 41). The Examiner concludes that one skilled in the art would have recognized the benefit of using DTMF tones in order to allow for remote controllable processing and programming within the system using pre-existing DTMF functionality (Ans. 41).

We agree with the Examiner's findings of fact and conclusion and we adopt them as our own. We add the following primarily for emphasis.

As stated *supra*, "the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference . . . .Rather, the test is what the combined teachings of those references would have suggested to those of ordinary skill in the art." *In re Keller*, 642 F.2d at 425. Thus, contrary to Appellants' assertion the Examiner does not need to cite any evidence supporting the modification of Hamlin to include additional circuitry, programming or other items to facilitate the proposed modification, nor does the Examiner need to show how the modified Hamlin's system would operate as so modified.

For the above reasons, Appellants' arguments have not persuaded us of error in the Examiner's rejection of claims 7, 22, 29, 31, 37-41, 67, and 75 under 35 U.S.C. § 103(a) as being unpatentable over Hamlin in view of Ellis and further in view of Edens, and we sustain the Examiner's rejection.

4. Regarding claims 17-19, 52, and 60-62

Did the Examiner err in determining that Hamlin in view of Ellis and further in view of Cohen teach or suggest converting word processing data into audio data as claimed.

Appellants repeat the arguments set forth in section 1 due to the dependency of the claims from independent claims 1, 46, and 55. We direct Appellants to section 1 of the analysis. Appellants further argue that the Examiner failed to cite the section of Cohen that corresponds to "multiple data forms for use in a unified system" in specifically addressing claim 17 (App. Br. 12).[2] Appellants further argue that instead of citing evidence, the rejection relies upon the Examiner's opinion as to the modification of Hamlin's frequency-based system (e.g., to create a more comprehensive and consistent facility) (App. Br. 12). Appellants further

[2] Simply pointing out what a claim requires with no attempt to point out how or why the claims patentably distinguish over the prior art does not amount to a separate argument for patentability. 37 C.F.R. § 41.37(c)(1)(vii) (2004). *See also In re Nielson*, 816 F.2d 1567, 1572 (Fed. Cir. 1987). Thus, we only address the specific arguments presented for claim 17, and we do not address Appellants' mere recitation of claims which are without any corresponding argument.

argue that the rejection does not cite any evidence supporting the modification of Hamlin to include additional circuitry, programming, or other items to facilitate the proposed modification, nor do any of the rejections describe how the Hamlin reference could operate as so modified (App. Br. 12).

The Examiner responds that Cohen teaches a unified messaging system that can convert text messages into audio messages (Ans. 43). The Examiner further states that this is useful in providing information to retrieval devices with technological limitations (Finding of Fact 14 and Ans. 43). The Examiner further states that one skilled in the art would have recognized the benefit of modifying Hamlin to provide a comprehensive and consistent facility for distributing information to a variety of home appliances as taught by Cohen (Ans. 43).

We agree with the Examiner's findings of fact and conclusion and we adopt them as our own. We add the following primarily for emphasis.

Representative claim 17 deals with processing external-services data for use in a facility and wherein word processing data are converted into audio data for use in a particular appliance (claim 17 and the chain of claims from which it depends claims 1 and 15). Cohen teaches that users are able to retrieve messages from their chosen unified messaging mailbox using any of several terminals (101-108), from any location, local or remote (Finding of Fact 15). Cohen further teaches that the user has unified access to any messaging service such as electronic mail, voice mail, and local area network (Finding of Fact 16). Cohen teaches that a text-to-speech converter (13) uses the well-known text-to-speech technology for media conversion so that most types of messages can be retrieved in voice form from a conventional voice telephone (101-102) (i.e., a particular appliance) (Finding of

Fact 17). Cohen further teaches a unified messaging system whereby messages can be forwarded from one service to another (Finding of Fact 18). Thus, one skilled in the art would recognize that the well-known technique of text-to-speech conversion used to improve communication systems into unified messaging, could also be used to improve Hamlin's devices in the same way (i.e., allowing retrieval of an e-mail in audio at a specific location of the home). *KSR*, 127 S. Ct. at 1740.

Furthermore, as stated *supra*, "the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference . . . . Rather, the test is what the combined teachings of those references would have suggested to those of ordinary skill in the art." *In re Keller*, 642 F.2d at 425. Thus, contrary to Appellants' assertion the Examiner does not need to cite any evidence supporting the modification of Hamlin to include additional circuitry, programming or other items to facilitate the proposed modification, nor does the Examiner need to show how the modified Hamlin's system would operate as so modified.

For the above reasons, Appellants' arguments have not persuaded us of error in the Examiner's rejection of claims 17-19, 52, and 60-62 under 35 U.S.C. § 103(a) as being unpatentable over Hamlin in view of Ellis and further in view of Cohen, and we sustain the Examiner's rejection.

5. Regarding claims 69 and 71-73

Did the Examiner err in determining that Hamlin in view of Ellis and further in view of Lewis teach or suggest a particular subscription to a TV as claimed?

Appellants repeat the arguments set forth in section 1 due to the dependency of the claims from independent claim 65. We direct Appellants to section 1 of the

analysis. Appellants specifically argue claim 69 directed to the assignment of a television subscription package, asserting that the Examiner improperly used Lewis[3] for the teaching of utilizing a subscription package to manage accounts and billing (App. Br. 13).[4] Appellants further argue that the Examiner does not cite any supporting evidence as to the desirability of the proposed modification of allowing for pay-per-view movies and more options for standard interactive television within the home system (App. Br. 13). Appellants repeat that there is no teaching or suggestion as to how Hamlin would operate as so modified (App. Br. 13).

The Examiner responds that Hamlin discloses a communication bus that receives a variety of television signals and communicates them to televisions throughout the home (col. 5, l. 46-54 and Fig. 1 and Ans. 44). The Examiner recognizes that Hamlin is silent as to the routing data including the assignment of a particular television subscription package to a TV (Ans. 44). The Examiner states that Lewis discloses a closed cable network within a building that receives

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[3] Appellants inadvertently refer to Cohen in the Appeal Brief instead of Lewis.

[4] Simply pointing out what a claim requires with no attempt to point out how or why the claims patentably distinguish over the prior art does not amount to a separate argument for patentability. 37 C.F.R. § 41.37(c)(1)(vii) (2004). *See also In re Nielson*, 816 F.2d 1567, 1572 (Fed. Cir. 1987). Thus, we only address the specific arguments presented with respect to claim 69, and we do not address Appellants' mere recitation of claims which are without any corresponding argument.

program source material from a pay per view system and directs the pay per view material to a room that ordered the material (col. 6, l. 25-33; col. 8, l. 42-48, and Ans. 44). The Examiner further states that Lewis expresses a need within the art for a system that allows a user to interactively access information outside of a network without requiring additional equipment within each user location (col. 1, l. 29-36). The Examiner concludes that one of ordinary skill in the art would have recognized the benefit of modifying the combination of Hamlin and Ellis to include sending pay per view data to the television equipment of a requesting room, such as that taught by Lewis in order to allow for access to pay-per-view movies without requiring additional equipment within the user location, such as that taught by Lewis.

We agree with the Examiner's findings of fact and conclusion and we adopt them as our own. We add the following primarily for emphasis.

As stated *supra*, the Examiner articulated the rationale of allowing for access to pay-per-view movies without requiring additional equipment, which possesses a rational underpinning to support the legal conclusion of obviousness. *In re Kahn*, 441 F.3d at 988.

Furthermore, "the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference . . . . Rather, the test is what the combined teachings of those references would have suggested to those of ordinary skill in the art." *In re Keller*, 642 F.2d at 425. Thus, contrary to Appellants' assertion the Examiner does not need to cite any evidence to show how the modified Hamlin's system would operate as so modified.

For the above reasons, Appellants' arguments have not persuaded us of error in the Examiner's rejection of claims 69 and 71-73 under 35 U.S.C. § 103(a) as being unpatentable over Hamlin in view of Ellis and further in view of Lewis, and we sustain the Examiner's rejection.

CONCLUSION OF LAW

We conclude that the Appellants have not shown that the Examiner erred in rejecting claims 1-75 under 35 U.S.C. § 103(a).

DECISION

The decision of the Examiner to reject claims 1-75 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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